

10.01.2023
Item No.7
Ct. No.7
CHC
(disposed of)

C.O. 2409 of 2022

Sri Prasanta Mistry
Vs.
Smt. Jhuma Mistry

Mr. Amit Baran Dash,
Ms. Ankana Sarkar

...for the petitioner

Mr. Syamal Kr. Das,
Ms. Krishna Yadav

...for the opposite party

The subject-matter of challenge in this case is against the order granting *alimony pendente lite* at the rate of Rs.20,000/- (Rupees Twenty Thousand only) per month to wife/opposite party.

While assailing the impugned order, Mr. Amit Baran Dash, learned advocate appearing for the petitioner/husband submits that pay slip produced by the husband, pertaining the month of June, 2022, could not be adequately considered by the court below, and thus the amount so assessed as *alimony pendente lite* is repressive, so far as the petitioner/husband is concerned.

Incidentally, it is submitted that the commitment and liability of the petitioner towards his old parents

even could not be gone into, while making assessment of the quantum of *alimony pendente lite*.

The innocuous submission raised by the petitioner is that a fair reduction of the amount would help the petitioner to ensure compliance of the order granting *alimony pendente lite*, bearing in mind that the petitioner has already been ordered in a proceeding under Section 125 Cr.P.C. directing the petitioner to pay Rs.10,000/- per month.

Per contra, Mr. Syamal Kr. Das, learned advocate appearing for the opposite party/wife submits that the opposite party/wife has to maintain her tender aged boy providing sufficient medical expenses therefor as the son is suffering from respiratory distress at the moment.

It is also submitted by the opposite party that while assessing the quantum of *alimony pendente lite* the last status enjoyed by the opposite party/wife must be kept in mind, so long she continued to enjoy during the conjugal life of her husband/petitioner.

Supporting the order of the court below, Mr. Das submits that there is nothing revealed to interfere by this Court.

Having considered the submission of both sides, it appears that the quantum of *alimony pendente lite* granted at the rate of Rs.20,000/- per month under

Section 24 of the Hindu Marriage Act, is only under challenge.

Upon perusal of the pay slip, produced by the petitioner/husband, pertaining to the month of June, 2022, it appears that there has been a voluntary deduction at the rate of Rs.31,059/-, which according to the petitioner, is towards loan repayment, against the sum taken as loan for building a house by the petitioner, and such loan for the building has been obtained by the petitioner/husband long before the filing of an application under Section 24 of the Hindu Marriage Act by the wife.

Upon perusal of the impugned order, it appears that the court below has gone into the income aspect of the husband together with the needs of the wife. The significant point is that the opposite party-mother has to bear some considerable amount to provide medicinal expenses for her ailing son, who is submitted to be tender aged at this moment. However, the petitioner/husband has also some commitment towards his old parents, which must be taken in view, while assessing the quantum of *alimony pendente lite*.

Having considered the submission of both sides, a little reduction in the quantum of *alimony pendente lite*, however, would facilitate the husband to make

payment of *alimony pendente lite* without making any departure towards discharging his obligation so far as his wife is concerned.

The impugned is thus modified with a direction upon the petitioner to pay Rs.18,000/- per month to the opposite party with effect from the date of order already passed by the court below. Other portions of the order however, will remain unchanged.

Since huge arrear is lying to be due towards the *alimony pendente lite*, and since an execution proceeding has already been invited, the petitioner is given liberty to take up this point regarding the payment already made in connection with proceeding granting maintenance under Section 125 Cr.P.C. and the arrears, if any, may be liquidated, if necessary, upon granting installment.

With this observation/direction, the revisional application stands disposed of.

Parties are directed to make communication of this order to the court below.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)